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10/574,383	03/31/2006	Hironari Akashi	MAT-8823US	2319
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RATNERPRESTIA			EXAMINER	
P.O. BOX 980			BAYOU, AMENE SETEGNE	
VALLEY FORGE, PA 19482				
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			3746	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,383

Applicant(s)

AKASHI ET AL.

Examiner

AMENE S. BAYOU

Art Unit

3746

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/28/10 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2,5,6,7-10,13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. In re claims 2 and 7 both recite "the wide magnetic path" which lacks antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 7, 8, 11, 12, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fumitoshi (Japanese patent publication JP2001073948)
7. In re claim 1, 7, 8, 11, 12, 16 and 18 Fumitoshi discloses an electric compressor including:
- A hermetic compressor ,in figure 1,comprising :a hermetic container (51) ;a motor element (53) accommodated in the hermetic container (5) ; and a compressing element (52) that is accommodated in the hermetic container (51) and driven by the motor element (53) , wherein the compressing element (52) has a shaft including an eccentric shaft and a main shaft (54,56) , and a main bearing (77) for pivoting the main shaft , the motor element is a bipolar permanent magnet motor (abstract) that has a stator (67) including a stator core and a rotor (55) including a rotor core ,the rotor core defines a hollow bore (69) extending from a first axial end of the rotor core ,the first axial end on the compressing element side of the rotor core ,and the rotor core includes a built in permanent magnet (70a) ,an axial length of the permanent magnet being less than an axial length of the rotor core (21 ;figure 8),the permanent magnet being positioned in the rotor core so that it extends from a second axial end of the rotor core opposite the hollow bore, the main bearing (77), is made of magnetic material (paragraph [0055]), and a wide magnetic path is provided to smooth the flow of the magnetic flux by the permanent magnet., the motor element is a self-starting permanent magnet synchronous motor (paragraph [0036]) the motor element has many conductor bars (inherently) of a cage conductor for start on the outer periphery of

the rotor core, and the permanent magnet is disposed in the inner peripheral side of the conductor bars and wherein the permanent magnet is a rare-earth magnet, (paragraph [0042]). In re claim 8, Please note that in accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please also note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e., the main bearing, does not depend on its method of production, i.e. ----. ***In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985).***

Alternate Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3,5-18 are rejected under 35 U.S.C 103(a) as being unpatentable over Kojima et al. (US patent publication number 20040191094) in view of Sasaki et al. (WO01/06624 .Please note that US patent number 6727627 which is functionally equivalent is used).

10. In re claim 1, Kojima et al disclose an electric compressor including:

- A hermetic compressor ,in figure 3,comprising :a hermetic container (101) ;a motor element (203) accommodated in the hermetic container (101) ; and a

compressing element (109) that is accommodated in the hermetic container (101) and driven by the motor element (303) , wherein the compressing element (110) has a shaft including an eccentric shaft (117) and a main shaft (116), and a main bearing (320) for pivoting the main shaft (116) , the motor element is a bipolar permanent magnet motor (paragraph [0052]) that has a stator (113) including a stator core and a rotor (315) including a rotor core ,the rotor core defines a hollow bore (306) extending from a first axial end of the rotor core, the first axial end on the compressing element side of the rotor core, and the rotor core (315) includes a built-in permanent magnet , the permanent magnet being positioned in the rotor core so that it extends from a bottom end opposite the top end of the rotor. Kojima et al ,however fail to disclose the following limitation which is taught by Sasaki et al:

- An axial length of the permanent magnet (45) being less than the axial length of the rotor core (42), in figure 18.

11. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compressor of Kojima et al et al by making the axial length of the permanent magnet to be less than that of the rotor core as taught by Sasaki et al in order to reduce the size of the compressor.

12. In re claim 2 Kojima et al in view of Sasaki et al as applied to claim 1 disclose the claimed invention:

Kojima et al disclose:

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- Axial length of the rotor core (315) is longer than axial length of a stator core (113) of the stator, hence the wide magnetic path is provided to smooth the flow of the magnetic flux by the permanent magnet, in figure 3.

13. In re claim 3, Kojima et al in view of Sasaki et al as applied to claim 2 disclose the claimed invention:

Kojima et al disclose:

- Both axial ends of the rotor core (115) are disposed outside both axial ends of the stator core (113), respectively, in figure 3.

14. In re claim 5, Kojima et al in view of Sasaki et al as applied to claim 2 disclose the claimed invention:

Kojima et al disclose:

- Axial length of the permanent magnet (115a) is shorter than axial length of the rotor core (115), and the permanent magnet covers a region having no bore in the axial direction of the rotor, in figure 1.

15. In re claim 6, Kojima et al in view of Sasaki et al as applied to claim 2 disclose the claimed invention:

Kojima et al disclose:

- The rotor core (315) has a cylindrical through hole having a first diameter into which the shaft (104) is inserted, the bore is a cylindrical recessed part that is formed in the upper part of the through hole and has a second diameter (306) larger than the first diameter (i.e. the diameter that fits shaft 104), the permanent magnet (315a) has an axial length shorter than the axial length of the rotor core

(315) , and covers a region of the first diameter in the rotor in an axial direction of the rotor core, in figure 3 and 4.

16. In re claim 7, Kojima et al in view of Sasaki et al as applied to claim 1 disclose the claimed invention:

Kojima et al disclose:

- The main bearing (120), in figure 3, is made of magnetic material (paragraph [0039]), and the wide magnetic path is provided (i.e. due to the fact that axial length of the rotor core is longer than axial length of a stator core of the stator as shown in figure 3 and also discussed in claim 2 above) to smooth the flow of the magnetic flux by the permanent magnet.

17. In re claim 8, Kojima et al in view of Sasaki et al as applied to claim 7 disclose the claimed invention:

Kojima et al disclose:

- The main bearing (120) is one of a casting and a molded product that is made of iron- based sintered material, in paragraph [0039]). Please note that in accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please also note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e., the main bearing,

does not depend on its method of production, i.e. ----. ***In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985).***

18. In re claim 9 and 13, Kojima et al in view of Sasaki et al disclose the claimed invention except mentioning that the axial length of the bore is 1/3 of axial length of the rotor core or more. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the proper axial length of the bore based to get the practical compressor size, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

19. In re claim 10 and 14, Kojima et al in view of Sasaki et al disclose the claimed invention except mentioning that the clearance between the surface of the bore and the Outer diameter of the main bearing is 0.5 to 3 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the proper clearance based on design parameters, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

20. In re claim 11, 15, 16, Kojima et al in view of Sasaki et al as applied to claim 1 inherently disclose that the motor element is a self-starting permanent magnet synchronous motor (see Kojima et al paragraph [0044]) the motor element has many conductor bars (inherently) of a cage conductor for start on the outer periphery of the

rotor core, and the permanent magnet is disposed in the inner peripheral side of the conductor bars.

21. In re claim 12, 17, 18 Kojima et al in view of Sasaki et al as applied to claim

1 disclose the claimed invention:

Kojima et al disclose:

- The permanent magnet (315a) is a rare-earth magnet, in paragraph [0052], lines 5-7.

Response to Arguments

22. Applicant's arguments with respect to claims 1 -18, filed December 31, 2009 have been considered but are not persuasive.

23. Applicant on page 2, paragraphs 1-6 argued that neither Kojima nor Sasaki disclose or teach the amended claim limitation. Especially applicants argued that Kojima's figure 4 only discloses either 1) a permanent magnet that is axially shorter than the rotor core but does not extend from either end of the rotor core or 2) a permanent magnet that is the same length as the rotor core. Further applicants argued that Sasaki's rotor core does not include a hollow bore. Examiner respectfully disagrees. Even though applicant's summary of the disclosures of Kojima and Sasaki is correct, nevertheless as detailed in the previous office action and also repeated here what is lacking in Kojima (namely, an axial length of the permanent magnet being less than the axial length of the rotor core) is taught by Sasaki. This fact is also not argued by the applicant. Applicant's argument that Sasaki's rotor core does not include a hollow bore is immaterial and out of context since feature is already disclosed by the primary

reference (Kojima).Examiner has only applied the above teaching of Sasaki in order to support obviousness rejection. Please note that A prior art is a prior art for all it teaches, even if a reference discloses an inoperative device (see MPEP 2121.01) .But in the instant case examiner has pointed out that it would have been obvious to one skilled in the art at the time the invention was made to have used a shorter permanent magnet than the rotor core as taught by Sasaki in order to reduce the motor size.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene S. Bayou whose telephone number is 571-270-3214. The examiner can normally be reached on Monday-Thursday,9:00 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from

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a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner, Art Unit 3746

/Amene S Bayou/
Examiner, Art Unit 3746